



State of Washington  
**PUBLIC DISCLOSURE COMMISSION**

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9:30 a.m.  
March 31, 2005

**MINUTES – SPECIAL MEETING**

Evergreen Plaza Building, Room 206  
711 Capitol Way South  
Olympia, Washington

**COMMISSION MEMBERS PRESENT**

Michael Connelly, Chair  
Earl Tilly, Member  
Jane Noland, Member  
Bill Brumsickle, Member

**STAFF PRESENT**

Vicki Rippie, Executive Director  
Nancy Krier, Senior Counsel  
Linda Dalton, Sr. Asst. Attorney General  
Ruthann Bryant, Secretary

The special meeting of the Public Disclosure Commission was called to order by Commission Chair Michael Connelly at 9:30 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

**Commissioner Comments**

Commissioner Connelly welcomed new members Ken Schellberg from Bellingham and Bill Brumsickle from Centralia. He also expressed his appreciation to Francis Martin and Jeannette Wood for their service on the Commission.

**Executive Session**

The Commission went into executive session at 9:33 a.m. to discuss pending and potential litigation with legal counsel.

**Public Session**

The Commission returned to public session at 9:45 a.m.

**Legislation**

Vicki Rippie updated the Commission on current legislation that would have an impact on the operation of the Public Disclosure Commission if passed into law.

Agency Request:

- House Bill 1143 PDC Enforcement Efficiencies/Penalties
- Engrossed Substitute Senate Bill 5034 Electioneering Communications

Surplus Funds:

Engrossed Substitute Senate Bill 5140 Disposal of Surplus Funds

Contribution Limits:

Substitute House Bill 1226 Relating to campaign contribution limits

Primary Election:

Engrossed Substitute House Bill 2027 Date of Primary election

Disclosure Related Legislation:

- House Bill 1130 Eliminating drop-in inspections for campaign accounts
- House Bill 1133 Reorganizing Public Disclosure Law

Government Accountability

- House Bill 1276 Governor's Signature on Significant Legislative Rules
- Engrossed Substitute House Bill 1064 Government Performance and Accountability
- Substitute House Bill 1834 Performance Measures for Budgeting Decisions
- Second Substitute House Bill 1970 Government Management, Accountability and Performance

Ms Rippie also briefly discussed the Governor and State Senate's budget proposals and legislation that did not make the cut-off on March 16<sup>th</sup>.

Enforcement Matters

Phil Stutzman summarized the status of current enforcement cases and cases closed over the past two years.

Mr. Stutzman recommended that the Commission reconsider its directive to hold enforcement hearings and approve dismissal letters for John Ladenburg, Pierce County Executive, Case #04-440, and Bill Ptacek, Director, King County Library District, Case #05-125.

Mr. Stutzman reported that in July of 2002 the King County Superior Court entered a permanent injunction that affected PDC enforcement and education activities with respect to RCW 42.17.130. The superior court ordered the PDC to remove guidelines discussing RCW 42.17.130 from its website, to not further disseminate the guidelines as written or disseminate similar information about RCW 42.17.130, and to not initiate or engage in enforcement activities based upon the guidelines. The State Supreme Court reversed the superior court and issued a mandate on January 5, 2004. He noted that the alleged violations in these cases occurred or began during the injunction period.

Commissioner Brumsickle recused himself from voting on this matter.

**Motion 05-075**

Moved by Commissioner Noland, seconded by Commissioner Tilly:

**The Commission reconsiders PDC Case #04-440, John Ladenburg, Pierce County Executive and Case #05-125, Bill Ptacek, Director, King County Rural Library District.**

The motion passed unanimously.

**Motion 05-076**

Moved by Commissioner Tilly, seconded by Commissioner Noland:

**The Commission approves the draft letters and dismisses PDC Case #04-440, John Ladenburg, Pierce County Executive and Case #05-125, Bill Ptacek, Director, King County Rural Library District.**

The motion passed unanimously.

Hearing:

Commissioner Connelly summarized the enforcement hearing process and provided brief instructions to counsel. Counsel present:

- Senior Assistant Attorney General Linda Dalton representing Public Disclosure Commission staff.
- Attorney Brian Wolfe, representing Don Bivins and Marilyn Westlake on matters not directly related to their employment with the City of Vancouver.
- Chief Assistant City Attorney for the City of Vancouver Judith Zeider representing Don Bivins and Marilyn Westlake on matters related to their employment with the City of Vancouver.
- Attorney Thomas Burke representing Marty James.

Linda Dalton requested that allegations against City Attorney for the City of Vancouver Ted Gaithe be dismissed.

**Motion 05-077**

Moved by Commissioner Noland, seconded by Commissioner Tilly:

**The Commission dismissed charges against Ted Gaithe.**

The motion passed unanimously.

Ms. Dalton also requested dismissal of allegations by the Respondents concerning a press release issued on February 5, 2002.

**Motion 05-078**

Moved by Commissioner Noland, seconded by Commissioner Brumsickle:

**The Commission dismissed charges against Don Bivins and Marilyn Westlake regarding the February 5, 2002 press release.**

The motion passed unanimously.

**Motion 05-079**

Moved by Commissioner Noland, seconded by Commissioner Tilly:

**In PDC Case #02-286, the Commission accepts Stipulation of Facts.**

The motion passed unanimously.

All parties agreed to waive oral reading of the Stipulation of Facts into the record.

Linda Dalton summarized the case against the following individuals for alleged violations of RCW 42.17.130:

- Don Bivins, Fire Chief, Vancouver Fire Department by: 1) authorizing the production and approving the content of three newsletters and a fact sheet that promoted the passage of a February 5, 2002 levy election; 2) authorizing one news release that promoted the passage of the February 5, 2002 levy; 3) using his Vancouver Fire Department vehicle and on-duty time to solicit a campaign contribution for the "Yes for Fire-EMS" levy committee; 4) using his Vancouver Fire Department vehicle to store levy campaign materials, and handing out the materials to campaign volunteers while on duty; 5) using his Vancouver Fire Department telephone to discuss campaign related activities; 6) using his Vancouver Fire Department computer to send campaign related e-mails; 7) authorizing a fire captain to store campaign materials in the fire captain's office; and 8) using Vancouver Fire Department video footage of firefighter activities for the promotion of the February 5, 2002 levy election.
- Marilyn Westlake, Education Outreach Coordinator, Vancouver Fire Department, by placing material on the Vancouver Fire Department's web site that promoted a February 5, 2002 levy election and using her City of Vancouver computer and printer to

produce a campaign brochure in support of the EMS levy campaign.

- Marty James, Administrator, Clark County Fire District 5, by authorizing the production and approving the content of three newsletters and a fact sheet that promoted the passage of a February 5, 2002 levy election.

Testifying on behalf of Public Disclosure Commission staff was the case investigator, Suemary Trobaugh, and PDC Director of Compliance Phil Stutzman.

Testifying for the Respondents were Pat McDonnell, Jim Crawford, Jeff Williams, Jim Demmon, Keith Flewelling, Marilyn Westlake, Don Bivins and Marty James.

Commissioner Connelly commented that based on the evidence provided, the Winter 2002 *Lifeline* publication (Exhibit 20) and some of the web pages were promotional. He added that the Commission did not believe the fact sheet and the news releases rose to the level of a violation and were not found to be promotional.

The Commission found Mr. Bivins violated RCW 42.17.130 by 1) authorizing the production, and approving the content, of the *Lifeline* newsletter, Exhibit 20; 2) using his Vancouver Fire Department vehicle to store levy campaign materials, and handing out the materials to campaign volunteers while on duty; 3) using his Vancouver Fire Department telephone on several occasions to discuss campaign related activities; and 4) using his Vancouver Fire Department computer to send campaign related emails on approximately six occasions.

**Motion 05-080**

Moved by Commissioner Tilly, seconded by Commissioner Noland:

**In PDC Case #02-286, Don Bivins, the Commission finds four violations of RCW 42.17.130 and assesses a penalty of \$1,000**

**with \$500 suspended based on no future violation of RCW 42.17 for two years.**

The motion passed unanimously.

The Commission found Marilyn Westlake violated RCW 42.17.130 by placing material on the Vancouver Fire Department's web site and using her City of Vancouver computer and printer to create a campaign brochure in support of the EMS levy campaign.

**Motion 05-081**

Moved by Commissioner Tilly, seconded by Commissioner Noland:

**In PDC Case #02-286, Marilyn Westlake, the Commission finds two violations of RCW 42.17.130 and assesses a penalty of \$500 with \$250 suspended based on no future violation of RCW 42.17 for two years.**

The motion passed unanimously.

The Commission determined Marty James violated RCW 42.17.130 by approving the content of the *Lifeline* Newsletter, Exhibit 20.

**Motion 05-082**

Moved by Commissioner Tilly, seconded by Commissioner Noland:

**In PDC Case #02-286, Marty James, the Commission finds a single violation of RCW 42.17.130 and assesses a penalty of \$200 with \$100 suspended based on no future violation of RCW 42.17 for two years.**

The motion passed unanimously.

Adjournment

Commissioner Connelly adjourned the meeting at 5:35 p.m. The next meeting is scheduled for Tuesday, April 26, 2005.

Approved by the Commission 4/26/05